

Court of Appeals, State of Michigan

ORDER

People of MI v William Jaquez Briggs

Docket No. **356972**

LC No. **19-003376-FH**

Michael F. Gadola, Judge, acting under MCR 7.211(E)(2), orders:

The confession of error submitted on May 12, 2021 is REJECTED. The application for leave to appeal seeks the relief of remanding this case to the trial court for resentencing to a 72-month minimum sentence on the relevant conviction based on the trial judge's sentencing evaluation during the plea hearing. However, in *People v Cobbs*, 443 Mich 276, 283; 505 NW2d 208 (1993), the Michigan Supreme Court stated that "a defendant who pleads guilty or nolo contendere in reliance upon a judge's preliminary evaluation with regard to an appropriate sentence has an absolute right to *withdraw the plea* if the judge later determines that the sentence must exceed the preliminary evaluation" (emphasis added). Thus, it does not appear clear that defendant is entitled to the relief sought in the application of a remand for resentencing to a 72-month minimum sentence on the relevant conviction. Rather, it may be that, presuming error occurred, the appropriate remedy is a remand for the trial court to decide in its discretion whether to resentence defendant to a 72-month minimum sentence on the conviction or to allow him to withdraw his plea if it concludes that it will no longer follow its initial sentencing evaluation.

The application for leave to appeal shall be submitted to an appropriate panel of this Court on the next practicable date. The confession of error shall also be submitted for consideration to the panel assigned to decide the application. MCR 7.211(C)(7).





A true copy entered and certified by Jerome W. Zimmer Jr., Chief Clerk, on

June 1, 2021

Date


Chief Clerk